Communities, Ethics and Rights

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Outline

- Ethics and rights
- Ethical principles, statements of ethics, codes of conduct
- Copyright
- Moral “rights”
- Access and use protocols
- Legal frameworks for research
- Reciprocity in language documentation
Ethics

Applied ethics:

- Identify interested parties -- at SOAS: research community, research subjects, society in general (include. govt bodies), funders of relevant research
- General principles, eg. ‘do good’, to document or not, ‘salvation linguists’
- Specific ethical principles
- Potential issues for attention
General principles

• Don’t do anything against someone’s will – ‘informed consent’
• Don’t inconvenience people or do things that will make them regret working with you
• Reciprocity
• Be sensitive to local culture and community dynamics, and your place in it
• Be respectful and keep an open mind
• Concrete ways of following these principles may be highly situation-specific
Specific principles

- Many universities or other organisations have their own ‘statement of ethics’ or ‘code of ethics’, eg. SOAS
- Many professional bodies have a ‘statement/code of ethics’, eg. Linguistic Society of America
- Local organisations, eg. Cultural Centres or Indigenous NGOs may have specific ethical statements also
SOAS statement on ethics

- Abide by principles laid down by Committee on Standards in Public Life: selflessness, integrity, objectivity, accountability, openness, honesty, leadership
- Be informed of legal requirements, including local and international law and agreements especially any UK legislation (e.g., Data Protection Act) and codes of practice of professional bodies, societies or associations, e.g., ASA, AAA
- Should recognise need to identify, declare and take steps to avoid conflicts of interest, e.g., no misuse for personal gain
- Take account of personal and national disparities in wealth, power, legal status of researcher, political interest
- Be sensitive to differences between civil, legal and financial position of national and foreign researchers
- Be responsible for design, methodology and execution of research
- Plan research to have demonstrated validity
- Disseminate research findings at earliest opportunity to increase public knowledge and understanding, subject to protection of intellectual property rights
- Clarify any intellectual property rights at outset of project
- Appropriately acknowledge and credit all contribution to project
- Do not publish or communicate other’s research findings without express permission
- Consider ethical acceptability and foreseeable consequences of research -- consider possible impact of findings on research subjects, informed uncoerced consent is required, “must inform subjects in readily understandable terms about aims and implications of research”, respect right of individual to refuse to cooperate and withdraw participation
- Protect subjects against foreseeable physical, psychological or social harm or suffering caused by participation, especially for minors and elderly
LSA statement on ethics
Ethics approval

- Language documentation research typically requires ethical approval
- Proposals must be submitted to university committees before any research starts
- “Protection of human subjects”
- What ethical problems do you need to address in your research statement – that is, in planning your research?
Ethics permission

- A privilege, not a right
- Will you need official consent from community leaders (e.g. chief, elders, political bodies)?
- How do you build trust – a prerequisite?
  - Sincerity necessary, but usually not sufficient
  - Intermediate contacts who are already known and trusted in the community
  - Invest time building relationships with people
- Beware of the effects of power asymmetries
Informed consent

- When you find people willing to work with you, you must obtain *informed consent*
- Advance understanding of what you are doing, and what they will be asked to do
- Be specific
- Freedom to withdraw at any time
- Overt agreement to participate
- Must be documented
Written, oral and third party consent

- Ethical review committees often want to see a signed, contract-like document
- Not appropriate to many field situations
  - Only certain people can give consent
  - What if people don’t read and write?
  - Can create rather than relieve suspicion - “signing away rights”
  - Oral agreements may be held in higher esteem
- Reading a prepared statement?
- Third party consent – applies to minors
Oral consent

- Have a natural conversation where you explain everything, ask for permission
- This is an important conversation to have – it’s not just for the committee
- You need to judge the success of the communication, their ability to give consent
- You can have natural conversations first, then ask to record a less natural version as evidence
Compensation

- How do you compensate people for the time and expertise they share with you?
- Monetary payment is common
  - By the hour/session/etc.
  - Presentation style matters
- Pay well, but not so much that it creates the potential for coercion
- When working with different people, keep “fairness” in mind
Non-monetary compensation

- Some people may not want to accept money
- Other ways to compensate people
  - Buying food, medicine
  - Doing housework, helping in fields or with shopping, writing letters, other small jobs
  - Find out how you can be useful
- You may want to do this even if you are also paying them
Rights

- Distinguish intellectual property rights (IPR), copyright, access and usage rights
- These are subject to:
  - 1. Laws of country where research takes place
  - 2. Laws of researcher’s country
  - 3. EU law (in case of SOAS and ELAR)
  - 4. International law
Intellectual property rights

- "Intellectual property refers to creations of the mind: inventions, literary and artistic works, and symbols, names, images, and designs used in commerce.” (WIPO)
- Begins at origin (point of recording) and requires informed consent of all parties and of parents of minors
- Types of consent: written/verbal/third party
- Issues:
  - What is sufficient explanation?
  - Anticipating (most/all) future uses of the data
  - Some laws governing consent
  - Even if consent is not a legal issue in a given country, it is still an ethical issue everywhere
Copyright

- Relates to ownership and distribution -- varies for different kinds of materials, eg. literary works vs sound recordings vs images and films vs databases
- Is a form of property law and relates to money and economic interest primarily -- as such copyright can be inherited, given away, or sold
  - Exclusive: e.g. publisher
  - Non-exclusive: e.g. archive + author
- Scope of copyright protection
  - Original work, fixed in a tangible medium
  - Only expression, not ideas, procedures, ... as such.
- Many common misconceptions about copyright law – check with local resources, eg. British Library
- Works made for hire have a special status
Copyright

- Issue of where the law applies
  - National laws (pertaining to place of copying, not of recording)
  - International agreements (WIPO)
- Copyright assignment may be part of employment contracts, eg. to US universities
World Intellectual Property Organisation (WIPO)

- Established by convention in 1967 (but drawing on Berne Convention of 1886)
- Objectives
  - Administer international treaties on intellectual property laws
    - Provide assistance to signatory nations in promulgating intellectual property laws
    - Harmonization of national laws

Posey & Dutfield 1996: 77, and WIPO website
Moral rights

Independently of the author’s economic rights and even after the transfer of said rights, the author shall have the right to claim authorship of the work and to object to any distortion, mutilation or other modification of, or other derogatory action in relation to the said work, which would be prejudicial to his honour or reputation (Article 6(1) of the Berne Convention, emphasis added)

Moral rights must be asserted in writing to have any effect
Protocols for access and use of data

Most archives offer **graded access**, ie. degrees of access based on the nature of the materials and the types of users

- Fully open vs. fully closed vs. partially open
- Partially open criteria: speaker-based, materials-based, user-based
- Eg. ELAR
ELAR protocols

● “In general, you should apply the least restrictive levels that meet your needs for most of the materials. If particular files, or parts of files, need a higher level of restriction, describe this using individual file metadata (see www.hrelp.org/archive/depositors/metadata/). You (or your delegate) can also add or change permissions later using your Depositor's page.

● The depositor has full access to all materials. Define access permissions for all others below.

● Choose one only of the three options P1, P2, P3, P4.”

● P1 = anyone; P2 = defined people or groups; P3 = ask depositor for permission; P4 = only depositor
Indigenous perspectives

In many countries existing intellectual property laws are limited for the following reasons:

- They emphasise economic rights over cultural rights
- No special protection is given for secret or sacred/religious material
- They do not cover the range of issues that Indigenous peoples consider as their cultural and intellectual property rights and Traditional Knowledge (e.g. Oral knowledge passed down through the generations, oral stories, dance etc)
- There are no performers' rights in relation to still photography
- They only provide protection for defined periods of time, and do not provide permanent protection
Respecting rights

- Record only with consent of all parties – no seruptitious recordings
- Check and discuss content of recordings, notes, dictionary entries, ... with other speakers and community members
- Show preliminary results (edited video, draft dictionary, texts with translations)
- Have publications checked and approved (cf. Wilkins 1992)
Some potential areas for disagreement

- Different views on “correct” language use
  - eg. loan words, different varieties, disfluencies
- Different tolerance of “offensive” language
  - eg. swear words, words for genitals etc. in dictionary? What if only overheard by fieldworker? (Cf. Wolcott 1999: 284f)
- Conflicting interest in the content of a document
  - e.g. statements about rights to country, oral history
- Different views on public access
  - eg. men vs. women, younger vs. older
Author or subject

- Authorship or anonymity?
- Protection of identity - but from whom?
  - Insiders
  - Outsiders
- Research on/for/with/by the community (see Grinevald 2004)
What do communities value?

http://languagespeak.wordpress.com/2007/05/31/what-are-linguists-good-for/

Two weeks ago our entire group attended the Workshop for American Indigenous Languages (WAIL) in Santa Barbara. There are 8 linguists on our team and 4 community language activists, making ‘our entire group’ a rather overwhelming, but nonetheless easy-going crew. We gave a group presentation on collaborative linguistics. What our presentation stressed was the necessity of forming a collaborative partnership between academics and communities in efforts to maintain and revitalize endangered languages.

Our talk was the last one of the session on the last day of the conference. Now of course, the audience was hardly impressed with the linguists on the team, but the community language activists were literally pummeled with questions after the talk was over.

One woman asked the language activists something like, “What one aspect of linguistics has been crucial to the development of your project?” She said she wanted to know because she was interested in teaching linguistics to community activists and would like to know where to start. (I know that she was looking for an answer like, ” Oh it was morphology! Once I understood the morphology and how to break words apart into meaningful units everything else made sense!” I know that she really wanted to hear what part of linguistics was actually useful to people doing language work.)
However, the answer she got from our community language activists was not like this at all. Instead they responded by mentioning how enthusiastic the linguists always were about doing language work (they said something like, ”they keep showing up”), and how much they enjoyed meeting with us, and ultimately how much they trusted us. Later on at the party I heard someone fondly summarize their answer as “Trust and love. What are linguists really good for? Trust and love.”

At first, after hearing this, the academic in me was disappointed. There has to be something from my discipline which is more useful to language revitalization, right? I mean, I’ve been studying linguistics for over 5 years ... was it all a waste of time? But then I got to thinking about how many negative things linguists have done throughout history ... when it comes down to it, I ought to be overjoyed that there is a community that likes me and thinks I’m a trustworthy academic. In fact, in the end, maybe it’s not so bad to be known for that.
What do communities want?

- outsiders to come back, to show interest
- talismans – dictionaries
- the sound of spoken language: accessible audio
- variety of cultural and learning resources, including useful, everyday expressions
- payment, gifts, equipment
- help with local services or problems
- (also what they don't want)

*there is no formula*
Giving and receiving

- cultures/communities may already have ways of relating to outsiders
- what did you actually get? (what others see may be different; whose view is important?)
  - priceless data, ultimate cultural tourism? friendship? life-changing perspective? malaria?
- what can you give?
  - let people know *what you’ve got*
  - find out what they need and can use
  - find out who to serve, e.g. maybe better to help the local education authority than have a vanity cultural experience
  - you can exclude doing things that you feel are adverse to your safety or morality, but you can’t exclude doing things that are outside your normal style or values, e.g. spend money
  - use your judgement, be circumspect about making marginal contributions, e.g. “new words” workshops
Cultural differences

- The argument I wish to make is that language documentation projects may mean something quite different to the community of speakers than they do to outside linguists, and that we need to take those differences seriously and respond to them as an integral aspect of our work. (Dobrin 2003)

- We might go into fieldwork with a lot of ideas about “giving back” in terms of language maintenance products (in whatever format), but...

- giving is not restricted to making picture books (you might buy food, throw a party, purchase equipment, pay school fees...)

- what the community sees as useful/desirable might not be what you expect (talismans, e.g. Stuart McGill’s cassette story – only 2 tape recorders in the village but everyone wanted a cassette – what is valuable is not necessarily the same as what is useful).

- your presence/actions/gifts can alter the balance of things, often unintentionally and in ways you might not expect (e.g. Dobrin found her presence altered people’s attitudes to and use of language)

- it is worth discussing this issue with people you trust to answer honestly and who will know what is/is not appropriate.
A community view of linguistic research

... anything that will help us to be able to know more about the Luqa and Kubokota languages is certainly to be encouraged and appreciated. But ... technical studies done on vernacular languages that are produced by professional linguists and written in a foreign language (e.g., English)... are usually no use at all for those whose languages are studied. For that reason, in the case of Kubokota we would strongly encourage that materials (dictionary, grammar, stories, literacy materials, etc) be also produced in Kubokota. I strongly feel that any work done on Kubokota ... must also benefit the language community. (Alpheaus Zobule, Luqa speaker, Solomon Islands, interviewed by Mary Raymond, SOAS)
Capacity building

- Documentary linguists (and most modern NGOs) tend to think in terms of local capacity building, with a focus on finite projects that will empower local people to manage things on their own – a kind of anti-neo-colonialism (although also a pragmatic response to the fact that we have our own lives to continue at home)

- but our very involvement is empowering – so what happens when we withdraw that?

- “giving (back)” is about establishing and maintaining relationships – which (ideally) goes far beyond our departure from the field site
  - Dobrin – departure dances and rituals are about establishing a foundation for a (potentially productive) relationship with an outsider to continue into the future
  - Need to “keep in touch” beyond the time doing fieldwork (technology can play a role here, eg. mobile phones, Skype, internet)
Things researchers can do

- Archiving. “Ideally, the results should be deposited in a local/regional site as well as the home institution of the grant holder (if that is different).”
- Participation of members of the language community in the work as co-researchers
- Training of members of the language community to work on and for the language (but you need to be trained how to train)
- Make arrangements to publish or broadcast some materials within the language community or the relevant country
The products of language documentation

But these products find their importance within a system of values that is profoundly different from ours, one which idealizes material exchange, relationships of mutual solicitude, and continuing, interested engagement... such products can only maintain their value in the context of extended exchange relationships between vernacular language communities and individual linguists. (Dobrin 2003)
Beyond ethics

- We need more than ethical frameworks, we need a holistic, humanistic practice
- cannot maintain “colonial” divisions of researcher vs. researched
- fieldwork and language documentation are some of the ultimate “social acts” in a system of exchange
- make reciprocity central, not peripheral, e.g. negotiate project conduct and outcomes, make documentation usable
- ethical behaviour (protection) or even advocacy is not enough – researchers should strive to share their knowledge with the people with whom they work
- we need to question basic linguistic/academic/literacy assumptions
- projects should be multidisciplinary
- Linguistics and projects themselves can gain as well by involving community members as agents, eg. in identifying significant language use or forms, helping decide appropriate outputs
References

- AIATSIS: *Guidelines for Ethical Research in Indigenous Studies*

